

CHAPTER 13--ADJUSTMENT OF DEBTS OF AN INDIVIDUAL  
WITH REGULAR INCOME

SUBCHAPTER I--OFFICERS, ADMINISTRATION, AND THE ESTATE

§ 1301. Stay of action against codebtor

(a) Except as provided in subsections (b) and (c) of this section, after the order for relief under this chapter, a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor, or that secured such debt, unless--

(1) such individual became liable on or secured such debt in the ordinary course of such individual's business; or

(2) the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title.

(b) A creditor may present a negotiable instrument, and may give notice of dishonor of such an instrument.

(c) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided by subsection (a) of this section with respect to a creditor, to the extent that--

(1) as between the debtor and the individual protected under subsection (a) of this section, such individual received the consideration for the claim held by such creditor;

(2) the plan filed by the debtor proposes not to pay such claim; or

(3) such creditor's interest would be irreparably harmed by continuation of such stay.

(d) Twenty days after the filing of a request under subsection (c)(2) of this section for relief from the stay provided by subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the debtor or any individual that is liable on such debt with the debtor files and serves upon such party in interest a written objection to the taking of the proposed action.

§ 1302. Trustee

(a) If the United States trustee appoints an individual under section 586(b) of title 28 to serve as standing trustee in cases under this chapter and if such individual qualifies under section 322 of this title, then such individual shall serve as trustee in the case. Otherwise, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as a trustee in the case.

(b) The trustee shall--

(1) perform the duties specified in sections 704(2), 704(3), 704(4), 704(5), 704(6), 704(7), and 704(9) of this title;

(2) appear and be heard at any hearing that concerns--

(A) the value of property subject to a lien;

- (B) confirmation of a plan; or
  - (C) modification of the plan after confirmation;
  - (3) dispose of, under regulations issued by the Director of the Administrative Office of the United States Courts, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act;
  - (4) advise, other than on legal matters, and assist the debtor in performance under the plan; ~~and~~<sup>1</sup>
  - (5) ensure that the debtor commences making timely payments under section 1326 of this title; ~~and~~<sup>2</sup>
  - (6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (d).<sup>3</sup>**
- (c) If the debtor is engaged in business, then in addition to the duties specified in subsection (b) of this section, the trustee shall perform the duties specified in sections 1106(a)(3) and 1106(a)(4) of this title.
- (d) (1) In any case described in subsection (b)(6), the trustee shall-**
- (A) (i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and**
  - (ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and**
  - (B) (i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;**
  - (ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and**
  - (iii) at such time as the debtor is granted a discharge under section 1328, notify the holder of the claim and the State child support agency of the State in which that holder resides of-**
    - (I) the granting of the discharge;**
    - (II) the last recent known address of the debtor;**
    - (III) the last recent known name and address of the debtor's employer; and**
    - (IV) with respect to the debtor's case, the name of each creditor that holds a claim that-**
      - (aa) is not discharged under paragraph (2), (4), or**

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<sup>1</sup>Bankruptcy Reform Act of 2001, sec. 219(d)(1)(A).

<sup>2</sup>Bankruptcy Reform Act of 2001, sec. 219(d)(1)(B).

<sup>3</sup>Bankruptcy Reform Act of 2001, sec. 219(d)(1)(C).

**(14) of section 523(a); or  
(bb) was reaffirmed by the debtor under section 524(c).**

**(2) (A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.**

**(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.<sup>4</sup>**

#### § 1303. Rights and powers of debtor

Subject to any limitations on a trustee under this chapter, the debtor shall have, exclusive of the trustee, the rights and powers of a trustee under sections 363(b), 363(d), 363(e), 363(f), and 363(l), of this title.

#### § 1304. Debtor engaged in business

(a) A debtor that is self-employed and incurs trade credit in the production of income from such employment is engaged in business.

(b) Unless the court orders otherwise, a debtor engaged in business may operate the business of the debtor and, subject to any limitations on a trustee under sections 363(c) and 364 of this title and to such limitations or conditions as the court prescribes, shall have, exclusive of the trustee, the rights and powers of the trustee under such sections.

(c) A debtor engaged in business shall perform the duties of the trustee specified in section 704(8) of this title.

#### § 1305. Filing and allowance of postpetition claims

(a) A proof of claim may be filed by any entity that holds a claim against the debtor--

(1) for taxes that become payable to a governmental unit while the case is pending; or

(2) that is a consumer debt, that arises after the date of the order for relief under this chapter, and that is for property or services necessary for the debtor's performance under the plan.

(b) Except as provided in subsection (c) of this section, a claim filed under subsection (a) of this section shall be allowed or disallowed under section 502 of this title, but shall be determined as of the date such claim arises, and shall be allowed under section 502(a), 502(b), or 502(c) of this title, or

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<sup>4</sup>Bankruptcy Reform Act of 2001, sec. 219(d)(2).

disallowed under section 502(d) or 502(e) of this title, the same as if such claim had arisen before the date of the filing of the petition.

(c) A claim filed under subsection (a)(2) of this section shall be disallowed if the holder of such claim knew or should have known that prior approval by the trustee of the debtor's incurring the obligation was practicable and was not obtained.

#### § 1306. Property of the estate

(a) Property of the estate includes, in addition to the property specified in section 541 of this title--

(1) all property of the kind specified in such section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 11, or 12 of this title, whichever occurs first; and

(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 11, or 12 of this title, whichever occurs first.

(b) Except as provided in a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.

#### § 1307. Conversion or dismissal

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable.

(b) On request of the debtor at any time, if the case has not been converted under section 706, 1112, or 1208 of this title, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable.

(c) Except as provided in subsection (e) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including--

- (1) unreasonable delay by the debtor that is prejudicial to creditors;
- (2) nonpayment of any fees and charges required under chapter 123 of title 28;
- (3) failure to file a plan timely under section 1321 of this title;
- (4) failure to commence making timely payments under section 1326 of this title;
- (5) denial of confirmation of a plan under section 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan;
- (6) material default by the debtor with respect to a term of a confirmed plan;
- (7) revocation of the order of confirmation under section 1330 of this title, and denial of confirmation of a modified plan under section 1329 of this title; [FN1]
- (8) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of payments under the plan;

(9) only on request of the United States trustee, failure of the debtor to file, within fifteen days, or such additional time as the court may allow, after the filing of the petition commencing such case, the information required by paragraph (1) of section 521; ~~or~~<sup>5</sup>

(10) only on request of the United States trustee, failure to timely file the information required by paragraph (2) of section 521; ~~or~~<sup>6</sup>

**(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.**<sup>7</sup>

(d) Except as provided in subsection (e) of this section, at any time before the confirmation of a plan under section 1325 of this title, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 11 or 12 of this title.

**(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.**<sup>8</sup>

~~(e)~~(f) The court may not convert a case under this chapter to a case under chapter 7, 11, or 12 of this title if the debtor is a farmer, unless the debtor requests such conversion.

~~(f)~~(g)<sup>9</sup> Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

## **§ 1308. Filing of prepetition tax returns**

**(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.**

**(b) (1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled**

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<sup>5</sup>Bankruptcy Reform Act of 2001, sec. 213(7)(A).

<sup>6</sup>Bankruptcy Reform Act of 2001, sec. 213(7)(B).

<sup>7</sup>Bankruptcy Reform Act of 2001, sec. 213(7)(C).

<sup>8</sup>Bankruptcy Reform Act of 2001, sec. 716(c)(2).

<sup>9</sup>Bankruptcy Reform Act of 2001, sec. 716(c)(1).

returns, but such additional period of time shall not extend beyond-

(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

(B) for any return that is not past due as of the date of the filing of the petition, the later of-

(i) the date that is 120 days after the date of that meeting; or

(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for-

(A) a period of not more than 30 days for returns described in paragraph (1); and

(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.<sup>10</sup>

## SUBCHAPTER II--THE PLAN

### § 1321. Filing of plan

The debtor shall file a plan.

### § 1322. Contents of plan

(a) The plan shall--

(1) provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan;

(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507 of this title, unless the holder of a particular claim agrees to a different

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<sup>10</sup>Bankruptcy Reform Act of 2001, sec. 716(b)(1).

treatment of such claim; ~~and~~<sup>11</sup>

(3) if the plan classifies claims, provide the same treatment for each claim within a particular class; ~~and~~<sup>12</sup>

**(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.**<sup>13</sup>

(b) Subject to subsections (a) and (c) of this section, the plan may--

(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated; however, such plan may treat claims for a consumer debt of the debtor if an individual is liable on such consumer debt with the debtor differently than other unsecured claims;

(2) modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;

(3) provide for the curing or waiving of any default;

(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any other unsecured claim;

(5) notwithstanding paragraph (2) of this subsection, provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

(6) provide for the payment of all or any part of any claim allowed under section 1305 of this title;

(7) subject to section 365 of this title, provide for the assumption, rejection, or assignment of any executory contract or unexpired lease of the debtor not previously rejected under such section;

(8) provide for the payment of all or part of a claim against the debtor from property of the estate or property of the debtor;

(9) provide for the vesting of property of the estate, on confirmation of the plan or at a later time, in the debtor or in any other entity; ~~and~~;<sup>14</sup>

**(10) provide for the payment of interest accruing after the date of the filing of**

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<sup>11</sup>Bankruptcy Reform Act of 2001, sec. 213(8)(A).

<sup>12</sup>Bankruptcy Reform Act of 2001, sec. 213(8)(B).

<sup>13</sup>Bankruptcy Reform Act of 2001, sec. 213(8)(C).

<sup>14</sup>Bankruptcy Reform Act of 2001, sec. 213(9)(A).

**the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and<sup>15</sup>**

**~~(10)~~(11)<sup>16</sup> include any other appropriate provision not inconsistent with this title.**

**(c) Notwithstanding subsection (b)(2) and applicable nonbankruptcy law--**

**(1) a default with respect to, or that gave rise to, a lien on the debtor's principal residence may be cured under paragraph (3) or (5) of subsection (b) until such residence is sold at a foreclosure sale that is conducted in accordance with applicable nonbankruptcy law; and**

**(2) in a case in which the last payment on the original payment schedule for a claim secured only by a security interest in real property that is the debtor's principal residence is due before the date on which the final payment under the plan is due, the plan may provide for the payment of the claim as modified pursuant to section 1325(a)(5) of this title.**

**~~(d) The plan may not provide for payments over a period that is longer than three years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than five years.~~**

**(d) (1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than-**

**(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;**

**(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or**

**(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus \$525 per month for each individual in excess of 4,**

**the plan may not provide for payments over a period that is longer than 5 years.**

**(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than-**

**(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;**

**(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same**

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<sup>15</sup>Bankruptcy Reform Act of 2001, sec. 213(9)(C).

<sup>16</sup>Bankruptcy Reform Act of 2001, sec. 213(9)(B).



number or fewer individuals last reported by the Bureau of the Census; or  
(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus \$525 per month for each individual in excess of 4,  
the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.<sup>17</sup>

(e) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1325(a)(5) of this title, if it is proposed in a plan to cure a default, the amount necessary to cure the default, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.

**(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.**<sup>18</sup>

#### § 1323. Modification of plan before confirmation

(a) The debtor may modify the plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of section 1322 of this title.

(b) After the debtor files a modification under this section, the plan as modified becomes the plan.

(c) Any holder of a secured claim that has accepted or rejected the plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and such holder changes such holder's previous acceptance or rejection.

#### § 1324. Confirmation hearing

**After**(a) **Except as provided in subsection (b) and after**<sup>19</sup> notice, the court shall hold a hearing on confirmation of the plan. A party in interest may object to confirmation of the plan.

**(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a).**<sup>20</sup>

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<sup>17</sup>Bankruptcy Reform Act of 2001, sec. 318(1).

<sup>18</sup>Bankruptcy Reform Act of 2001, sec. 224(d).

<sup>19</sup>Bankruptcy Reform Act of 2001, sec. 317(1).

<sup>20</sup>Bankruptcy Reform Act of 2001, sec. 317(2).

§ 1325. Confirmation of plan

(a) Except as provided in subsection (b), the court shall confirm a plan if--

(1) the plan complies with the provisions of this chapter and with the other applicable provisions of this title;

(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

(3) the plan has been proposed in good faith and not by any means forbidden by law;

(4) the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7 of this title on such date;

(5) with respect to each allowed secured claim provided for by the plan--

(A) the holder of such claim has accepted the plan;

(B) ~~(i) the plan provides that the holder of such claim retain the lien securing such claim; and~~ **(i) the plan provides that-**

**(I) the holder of such claim retain the lien securing such claim until the earlier of-**

**(aa) the payment of the underlying debt determined under nonbankruptcy law; or**

**(bb) discharge under section 1328; and**

**(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law;<sup>21</sup> and<sup>22</sup>**

(ii) the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of such claim; ~~or~~ **and<sup>23</sup>**

**(iii) if-**

**(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and**

**(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate**

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<sup>21</sup>Bankruptcy Reform Act of 2001, sec. 306(a).

<sup>22</sup>Bankruptcy Reform Act of 2001, sec. 309(c)(1)(A).

<sup>23</sup>Bankruptcy Reform Act of 2001, sec. 309(c)(1)(B).

**protection during the period of the plan; or<sup>24</sup>**

(C) the debtor surrenders the property securing such claim to such holder;

**and<sup>25</sup>**

(6) the debtor will be able to make all payments under the plan and to comply with the plan;<sup>26</sup>

**(7) the action of the debtor in filing the petition was in good faith;<sup>27</sup>**

**(8) the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first becomes payable after the date on which the petition is filed; and<sup>28</sup>**

**(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.<sup>29</sup>**

**For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 5-year period preceding the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined by section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.<sup>30</sup>**

(b) (1) If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, then the court may not approve the plan unless, as of the effective date of the plan--

(A) the value of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

(B) the plan provides that all of the debtor's projected disposable income to be received in the ~~three-year period~~ **applicable commitment period<sup>31</sup>** beginning on the

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<sup>24</sup>Bankruptcy Reform Act of 2001, sec. 309(c)(1)(C).

<sup>25</sup>Bankruptcy Reform Act of 2001, sec. 102(g)(1).

<sup>26</sup>Bankruptcy Reform Act of 2001, sec. 102(g)(2).

<sup>27</sup>Bankruptcy Reform Act of 2001, sec. 102(g)(3).

<sup>28</sup>Bankruptcy Reform Act of 2001, sec. 213(10).

<sup>29</sup>Bankruptcy Reform Act of 2001, sec. 716(a).

<sup>30</sup>Bankruptcy Reform Act of 2001, sec. 306(b).

<sup>31</sup>Bankruptcy Reform Act of 2001, sec. 318(2).

date that the first payment is due under the plan will be applied to make payments to **unsecured creditors**<sup>32</sup> under the plan.

~~(2) For purposes of this subsection, "disposable income" means income which is received by the debtor and which is not reasonably necessary to be expended--~~

~~(A) for the maintenance or support of the debtor or a dependent of the debtor, including charitable contributions (that meet the definition of "charitable contribution" under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made; and~~

~~(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.~~

**(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended-**

**(A) for the maintenance or support of the debtor or a dependent of the debtor or for a domestic support obligation that first becomes payable after the date the petition is filed<sup>33</sup> and for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and**

**(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.**

**(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than-**

**(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;**

**(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or**

**(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus \$525 per month for**

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<sup>32</sup>Bankruptcy Reform Act of 2001, sec. 102(h)(1).

<sup>33</sup>Bankruptcy Reform Act of 2001, sec. 218(b) (included in language of sec. 102(h)(2)).

each individual in excess of 4.<sup>34</sup>

**(4) For purposes of this subsection, the 'applicable commitment period'-**

**(A) subject to subparagraph (B), shall be-**

**(i) 3 years; or**

**(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than-**

**(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;**

**(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or**

**(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus \$525 per month for each individual in excess of 4; and**

**(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period.<sup>35</sup>**

(c) After confirmation of a plan, the court may order any entity from whom the debtor receives income to pay all or any part of such income to the trustee.

## § 1326. Payments

~~(a) — (1) Unless the court orders otherwise, the debtor shall commence making the payments proposed by a plan within 30 days after the plan is filed.~~

~~(2) A payment made under this subsection shall be retained by the trustee until confirmation or denial of confirmation of a plan. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as practicable. If a plan is not confirmed, the trustee shall return any such payment to the debtor, after deducting any unpaid claim allowed under section 503(b) of this title.~~

**(a) (1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount-**

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<sup>34</sup>Bankruptcy Reform Act of 2001, sec. 102(h)(2).

<sup>35</sup>Bankruptcy Reform Act of 2001, sec. 318(3).

(A) proposed by the plan to the trustee;

(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due

after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.<sup>36</sup>

(b) Before or at the time of each payment to creditors under the plan, there shall be paid--

(1) any unpaid claim of the kind specified in section 507(a)(1) of this title; ~~and~~<sup>37</sup>

(2) if a standing trustee appointed under section 586(b) of title 28 is serving in the case, the percentage fee fixed for such standing trustee under section 586(e)(1)(B) of title 28.; ~~and~~<sup>38</sup>

(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case

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<sup>36</sup>Bankruptcy Reform Act of 2001, sec. 309(c)(2).

<sup>37</sup>Bankruptcy Reform Act of 2001, sec. 1226(1)(A).

<sup>38</sup>Bankruptcy Reform Act of 2001, sec. 1226(1)(B).

**dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly-**

**(A) by prorating such amount over the remaining duration of the plan;**

**and**

**(B) by monthly payments not to exceed the greater of-**

**(i) \$25; or**

**(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.<sup>39</sup>**

(c) Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

**(d) Notwithstanding any other provision of this title-**

**(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior proceeding under this title; and**

**(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).<sup>40</sup>**

#### § 1327. Effect of confirmation

(a) The provisions of a confirmed plan bind the debtor and each creditor, whether or not the claim of such creditor is provided for by the plan, and whether or not such creditor has objected to, has accepted, or has rejected the plan.

(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

(c) Except as otherwise provided in the plan or in the order confirming the plan, the property vesting in the debtor under subsection (b) of this section is free and clear of any claim or interest of any creditor provided for by the plan.

#### § 1328. Discharge

(a) As soon as practicable after completion by the debtor of all payments under the plan, **and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before**

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<sup>39</sup>Bankruptcy Reform Act of 2001, sec. 1226(1)(C).

<sup>40</sup>Bankruptcy Reform Act of 2001, sec. 1226(2).

**the petition was filed, but only to the extent provided for in the plan) have been paid<sup>41</sup>**, unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan or disallowed under section 502 of this title, except any debt--

~~(1) provided for under section 1322(b)(5) of this title;~~  
~~(2) of the kind specified in paragraph (5), (8), or (9) of section 523(a) of this title; or~~  
~~(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime.~~

**(1) provided for under section 1322(b)(5);**  
**(2) of the kind specified in paragraph section 507(a)(8)(C) or in paragraph (1)(B), (1)(C)<sup>42</sup>, (2), (3), (4), (5), (8), or (9) of section 523(a);**  
**(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or**  
**(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.<sup>43</sup>**

(b) At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if--

(1) the debtor's failure to complete such payments is due to circumstances for which the debtor should not justly be held accountable;

(2) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

(3) modification of the plan under section 1329 of this title is not practicable.

(c) A discharge granted under subsection (b) of this section discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502 of this title, except any debt--

(1) provided for under section 1322(b)(5) of this title; or  
(2) of a kind specified in section 523(a) of this title.

(d) Notwithstanding any other provision of this section, a discharge granted under this section does not discharge the debtor from any debt based on an allowed claim filed under section 1305(a)(2) of this title if prior approval by the trustee of the debtor's incurring such debt was practicable and was not obtained.

(e) On request of a party in interest before one year after a discharge under this section is

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<sup>41</sup>Bankruptcy Reform Act of 2001, sec. 213(11).

<sup>42</sup>Bankruptcy Reform Act of 2001, sec. 707.

<sup>43</sup> Bankruptcy Reform Act of 2001, sec. 314(b).



granted, and after notice and a hearing, the court may revoke such discharge only if--

(1) such discharge was obtained by the debtor through fraud; and

(2) the requesting party did not know of such fraud until after such discharge was granted.

**(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 if the debtor has received a discharge in any case filed under this title within 5 years before the order for relief under this chapter.<sup>44</sup>**

**(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.**

**(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.**

**(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.<sup>45</sup>**

#### § 1329. Modification of plan after confirmation

(a) At any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to--

(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

(2) extend or reduce the time for such payments; or

(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan.

(b) (1) Sections 1322(a), 1322(b), and 1323(c) of this title and the requirements of section 1325(a) of this title apply to any modification under subsection (a) of this section.

(2) The plan as modified becomes the plan unless, after notice and a hearing, such modification is disapproved.

(c) A plan modified under this section may not provide for payments over a period that expires

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<sup>44</sup>Bankruptcy Reform Act of 2001, 312(2).

<sup>45</sup>Bankruptcy Reform Act of 2001, sec. 106(c).

after ~~three years~~ **the applicable commitment period under section 1325(b)(1)(B)**<sup>46</sup> after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.

§ 1330. Revocation of an order of confirmation

(a) On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1325 of this title, and after notice and a hearing, the court may revoke such order if such order was procured by fraud.

(b) If the court revokes an order of confirmation under subsection (a) of this section, the court shall dispose of the case under section 1307 of this title, unless, within the time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1329 of this title.

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<sup>46</sup>Bankruptcy Reform Act of 2001, sec. 318(4).